

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CROSSBOW CEMENT SA

08 Civ. 5074 (HB)

Plaintiff,

**DECLARATION OF STEPHEN  
JACOBSON IN SUPPORT OF  
DEFENDANT'S MOTION TO  
VACATE THE ATTACHMENT**

MOHAMED ALI SALEH AL-HASHEDI &  
BROTHERS,

Defendant.

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STEPHEN JACOBSON, pursuant to 28 U.S.C § 1746 hereby declares that the following is true and correct under penalty of perjury:

1. I am an associate of the firm of BERNSTEIN & BERNSTEIN, LLP, attorneys for the defendant herein, MOHAMED ALI SALEH AL-HASHEDI & BROTHERS (hereinafter Al-Hashedi" or "Defendant") and I am admitted to practice before this Court. I submit this declaration in support of Al-Hashedi's Motion to Vacate the Attachment on the grounds set forth in the accompanying memorandum of law and the facts set forth in the documents annexed to the defendant's motion papers.

2. The parties entered into a sale contract whereby Al-Hashedi purchased a quantity of Chinese bagged Portland cement from plaintiff Crossbow Cement. The contract provided for delivery in Aden. However, at the request of the defendant, the plaintiff agreed to discharge cargo at Berbera and Hodeidah, in exchange for which the sellers agreed to pay an additional lump sum.

3. Annexed hereto as Exhibit "1" is the sales contract as evidenced by pro-forma invoice number 07091/05, dated July 27, 2005.

4. Annexed hereto as Exhibit "2" is the sales contract as evidenced by pro-forma invoice number 09016/05, dated September 26, 2005, wherein the parties agreed to the cargo being discharged at Berbera and Hodeidah in exchange for a lump sum payment by the defendant.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
July , 2008

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STEPHEN JACOBSON (SJ-3615)

# EXHIBIT 1

# CROSSBOW CEMENT SA

Swiss Trading Company for Portland Cements



6 Avenue de Frontenex  
PO Box 6248  
1211 Geneva 6 // Switzerland  
Telephones (022) 786 45 11 / 77  
Telefax (022) 786 69 79  
Telex 413 610 MERP CH

MOHAMED ALI SALEH AL-HASHEDI & BRO  
PO BOX 5499  
TAIZ / YEMEN REPUBLIC

PROFORMA  
INVOICE N° 07091/05.

GENEVA, JULY 27TH, 2005.  
PHE/BDD

FOR : ORDINARY PORTLAND CEMENT, QUALITY GB175-1999 GRADE 32,5H, PACKED IN STRONG POLYPROPYLENE BAGS (1 PLY KRAFT PAPER INNER), IN SLING-BAGS OF 40 BAGS EACH.  
ORIGIN : CHINA.

	UNIT PRICE	TOTAL PRICE
QUANTITY : ABOUT 25.000 MT	US\$ 72.--	US\$ 1.800.000.--
-SHIPMENT IN ONT LOT WITHIN ABOUT 35 DAYS FROM NOTIFICATION DATE OF LC IN GOOD ORDER WITH "CREDIT SUISSE" IN GENEVA/SWITZERLAND,	PER MT CFR FREE	=====
-ENGLISH LAW TO APPLY/LONDON ARBITRATION CLAUSE,	OUT ADEN (1 SAFE	
-DISCHARGING RATE : MINIMUM 1.500 MT PWD PHEX UU,	PORT).	
-TIME TO START COUNTING AS PER "GENCON" C/P TERMS,		
-DEMURRAGES : US\$20.000 PER DAY OR PRORATA, PAYABLE EVERY 3 DAYS IN ADVANCE,		
-PAYMENT BY IRREVOCABLE CONFIRMED TRANSFERABLE LETTER OF CREDIT PAYABLE AT SIGHT WITH "CREDIT SUISSE" IN GENEVA/SWITZERLAND AGAINST PRESENTATION OF :		
AA-COMMERCIAL INVOICES,		
BB-FULL SET OF 3/3 "CHARTER-PARTY" MARINE BILLS OF LADING MARKED "FREIGHT PREPAID" "FREE OUT",		
CC ORIGIN CERTIFICATE,		
DD ANALYSIS CERTIFICATE,		
EE PACKING AND WEIGHT LIST,		
FF INSPECTION CERTIFICATE FOR QUALITY/QUANTITY ISSUED BY RELEVANT CHINESE AUTHORITIES.		
SPECIAL CLAUSES :		
1) BOX +/- ALLOWED ON AMOUNT AND QUANTITY,		
2) "CHARTER-PARTY" BL/S AUTHORIZED,		
3) ALL BANK CHARGES/CONFIRMATION/COMMISSIONS OUTSIDE "CREDIT SUISSE" FOR APPLICANTS/OPENERS' ACCOUNT,		
4) THIRD PARTY DOCUMENTS ACCEPTABLE.		
-VALIDITY FOR CONFIRMATION : JULY 31ST, 2005.		
-LAST TIME FOR LC OPENING : AUGUST 7TH, 2005.		

CROSSBOW CEMENT SA

MOHAMED ALI SALEH AL-HASHEDI & BRO  
M.A.S.H  
TAIZ - YEMEN REPUBLIC

## EXHIBIT 2



# CROSSBOW CEMENT SA

Swiss Trading Company for Portland Cements



## FAX OUT

6, avenue de Frontenex  
P.O. Box 8246  
1211 Geneva 6 / Switzerland  
Telephones (022) 788 46 11 / 77  
Telefax (022) 788 69 79  
Telex 413 510 MERP CH

MOHAMED ALI SALEH AL HASHEDI AND  
P.O. BOX 5499  
TAIZ, YEMEN REPUBLIC

INVOICE No 090.16/05.

GENEVA, SEPTEMBER 26TH, 2005  
PHE/BDD

REF : SHIPMENT OF 27.500 M/TONS CHINESE ORDINARY PORTLAND CEMENT GB 175-1999 GRADE  
32,5R BY MV "SEABOSS 1" FROM LONGKOU/CHINESE PORT TO ADEN PORT/YEMEN AS PER  
BL/B DATED 3/9/2005. LIC NO T500385

FOR :  
CHANGING DISCHARGING PORT AS FIRST BERBERA/SOMALIA  
FOR 5.000. M/TONS, WHERE TIME TO START COUNTING AS  
PER "GENCON" CHARTER-PARTY TERMS, WHERE FULL D/A  
PAYABLE BY BUYERS TO THEIR APPOINTED LOCAL SHIPPING  
AGENTS, INCLUDING ALL TAXES/DUES/CHARGES/LEVIES  
AND EXPENSES WHATSOEVER.  
DISCHARGING RATE MINIMUM 1.500 TONS PER WHH  
FREE UU, TIME STARTING TO COUNT AS PER "GENCON",  
DEMURRAGES : US\$20.000.- PER DAY OR PRORATA, PAYABLE  
BY BUYERS TO SELLERS EVERY 3 DAYS IN ADVANCE,  
THEN BALANCE OF 22500 M/TONS DISCHARGED AT SECOND  
PORT HOEIDAH/YEMEN WHERE D/A FOR SHIPOWNERS'  
ACCOUNT.  
DISCHARGING RATE AT HOEIDAH : 1.500 M/T FWWD  
FREE UU, TIME TO START COUNTING AS PER "GENCON"  
CHARTER-PARTY TERMS, DEMURRAGES : US\$ 20.000.- PER  
DAY OR PRORATA, PAYABLE BY BUYERS TO SELLERS EVERY  
3 DAYS IN ADVANCE.

TOTAL PRICE

PAYABLE BY TELEGRAPHIC REMITTANCE ON 27TH, VALUE  
27TH, TO : CREDIT-SUISSE

17, RUE DE LAUSANNE  
1211 GENEVA 70/SWITZERLAND  
SWIFT : CRESCH2212A  
IBAN : CH09 0425 1067 6636 6200 0  
FAVOUR ACCOUNT NUMBER 676636-62.

LUMBBUM

US\$ 75.000.-

CROSSBOW CEMENT SA

MOHAMED ALI SALEH AL HASHEDI & BRO.  
TAIZ - YEMEN REPUBLIC